

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM FUELBERTH, Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

GODFATHER'S PIZZA, INC.,

Defendant.

Case No. 8:22-cv-00195

JOINT MOTION TO AMEND CASE
PROGRESSION ORDER

COME NOW the Plaintiffs William Fuelberth, Anthony Robert Cook, Ethan Bradley Brownell, William E. Donlan, Rebecca Holmes, Sara G. Hovorka, Christian Ramos, Jordan Schnider, Dylan Thomas, Halee Williams, Aaron Lyle Wilson, Noah Daniel Grice, Brad Mathewson, Dylan Araujo, Brian Avalos, Alex Leland Carey, Louis J. Hacker, Ryan Loye, Samuel J. Peterson, Edward Anthony Walbrecht, T'Challa Wayne Berg, Michael Anthony Miller, Tamara Schwid, James Dean Soderholm, Christopher Kollar, Gage Michael Kreeger-Collier, Amber Burbridge, Trenea Starks, Anthony Palazzola, Spencer Jonas, Christian Kjeldgaard, Melissa Spear, Joel Pattie, Guy Robert Brown II, Brandon L. Hopkins, Courtney James Schenk, Todd Taylor, Thomas Nastase, and Andrea Manganaro (collectively, the "Plaintiffs"), and Defendant Godfather's Pizza, Inc. ("Godfather's Pizza"), pursuant to Federal Rule of Civil Procedure 7(b) and Local Rule NECivR 7.1(a)(1)(B), and jointly move the Court for an Order amending the Amended Final Progression Order [*Doc. No. 44*] dated September 22, 2023, to extend certain deadlines by a period of approximately ninety (90) days as noted herein. In support of this motion, the parties jointly state as follows:

1. The parties have exercised due diligence in the timely progression of this case, including but not limited to exchanging proposals for limited provisional discovery.

2. The parties have also discussed the production of certain information for purposes of evaluating whether the parties wish to engage in settlement discussions and/or mediation.

3. In light of the above, the parties believe it is most efficient and in the parties' best interests to extend certain deadlines set forth in the Amended Final Progression Order, to allow the parties sufficient time to gather and produce certain information and to allow the parties to engage in meaningful settlement discussions and/or mediation.

4. Accordingly, the parties propose the Final Amended Progression Order be amended as follows:

- a. Extend the deadline for completing written discovery from March 22, 2024 to June 24, 2024;
- b. Extend the deadline for filing motions to compel written discovery from April 12, 2024 to July 12, 2024;
- c. Extend the deadline for Plaintiffs to identify expert witnesses expected to testify at trial and non-retained experts from March 29, 2024 to July 1, 2024;
- d. Extend the deadline for Godfather's Pizza to identify expert witnesses expected to testify at trial and non-retained experts from May 29, 2024 to August 29, 2024;
- e. Extend the deadline for Plaintiffs to serve complete expert disclosures for all experts expected to testify at trial and non-retained experts from April 29, 2024 to July 29, 2024;

- f. Extend the deadline for Godfather's Pizza to serve complete expert disclosures for all experts expected to testify at trial and non-retained experts from June 28, 2024 to September 30, 2024;
 - g. Extend the deposition deadline from July 29, 2024 to October 29, 2024;
 - h. Extend the deadline for filing motions to dismiss and motions for summary judgment from September 30, 2024 to January 10, 2025;
 - i. Extend the deadline for filing motions to exclude testimony on Daubert and related grounds from August 29, 2024 to November 29, 2024.
5. If necessary, counsel for the parties are available and willing to hold a scheduling conference with the Court to discuss the deadlines proposed herein.

WHEREFORE, the parties respectfully and jointly move the Court to amend the Amended Final Progression Order [*Doc. No. 44*] as set forth herein and to enter the proposed Second Amended Final Progression Order affixed hereto as Attachment "1".

Jointly submitted by:

WILLIAM FUELBERTH, ANTHONY ROBERT COOK,
ETHAN BRADLEY BROWNELL, WILLIAM E. DONLAN,
REBECCA HOLMES, SARA G. HOVORKA, CHRISTIAN
RAMOS, JORDAN SCHNIDER, DYLAN THOMAS,
HALEE WILLIAMS, AARON LYLE WILSON, NOAH
DANIEL GRICE, BRAD MATHEWSON, DYLAN
ARAUJO, BRIAN AVALOS, ALEX LELAND CAREY,
LOUIS J. HACKER, RYAN LOYE, SAMUEL J.
PETERSON, EDWARD ANTHONY WALBRECHT,
T'CHALLA WAYNE BERG, MICHAEL ANTHONY
MILLER, TAMARA SCHWID, JAMES DEAN
SODERHOLM, CHRISTOPHER KOLLAR, GAGE
MICHAEL KREEGER-COLLIER, AMBER
BURBRIDGE, TRENEA STARKS, ANTHONY
PALAZZOLA, SPENCER JONAS, CHRISTIAN
KJELDGAARD, MELISSA SPEAR, JOEL PATTIE, GUY
ROBERT BROWN II, BRANDON L. HOPKINS,
COURTNEY JAMES SCHENK, TODD TAYLOR,
THOMAS NASTASE, AND ANDREA MANGANARO,
Plaintiffs

By: /s/ Josh Sanford

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- and -

GODFATHER'S PIZZA, INC., Defendant

By: /s/ Tara A. Stingley

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CERTIFICATE OF SERVICE

I, Tara A. Stingley, hereby certify that on this 9th day of February, 2024, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of Nebraska using the CM/ECF system, which sent notification of such filing to the following:

Josh Sanford
josh@sanfordlawfirm.com

/s/ Tara A. Stingley

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WILLIAM FUELBERTH, Individually and
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Case No. 8:22-cv-00195

SECOND AMENDED FINAL
PROGRESSION ORDER

THIS MATTER is before the Court on the parties' submission of a Joint Motion to Amend Amended Final Progression Order. The proposed order is accepted. Accordingly,

IT IS ORDERED that the provisions of the Court's previous Amended Final Progression Order remain in effect, and in addition to those provisions, progression shall be amended as follows:

- 1) The deadline for completing written discovery under Rule 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is **June 24, 2024**. Motion to compel written discovery under Rule 33, 34, 36 and 45 must be filed by **July 12, 2024**.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

Plaintiff and opt-in Plaintiffs, as a group, may serve a total of twenty-five (25) interrogatories and twenty-five (25) requests for admissions directed to Defendant. Defendant may serve twenty-five (25) interrogatories and twenty-five (25) requests for admissions directed to Plaintiff and each opt-in Plaintiff.

- 2) The deadlines for identifying expert witnesses expected to testify at trial, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Plaintiff and opt-in Plaintiffs: **July 1, 2024**

For Defendant: **August 29, 2024**

- 3) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated

For Plaintiff and opt-in Plaintiffs: **July 29, 2024**

For Defendant: **September 30, 2024**

- 4) The deposition deadline, including but not limited to depositions for oral testimony under Rule 45, is **October 29, 2024**.
 - a. The maximum number of depositions that may be taken by the Plaintiffs as a group is five (5). The maximum number of depositions that may be taken by the Defendants as a group is fifteen (15). The parties agree to meet and confer regarding potential depositions of post-certification opt-in plaintiffs exceeding the above limits.
 - b. Depositions will be limited by Rule 30(d)(1).
- 5) The deadline for filing motions to dismiss and motions for summary judgment is **January 10, 2025**.
- 6) The deadline for filing motions to exclude testimony on Daubert and related grounds is **November 29, 2024**.
- 7) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 8) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this ____ day of _____, 2024.

BY THE COURT:

United States Magistrate Judge

within their treatment documentation. As to each such expert, any opinions which are not stated within the expert's treatment records must be separately and timely disclosed.

Jointly prepared and submitted by:

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ETHAN BRADLEY BROWNELL, WILLIAM E. DONLAN,
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THOMAS NASTASE, AND ANDREA MANGANARO,
Plaintiffs

By: /s/ Josh Sanford

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- and -

GODFATHER'S PIZZA, INC., Defendant

By: /s/ Tara A. Stingley

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